IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2513 OF 2000
WITH
CRIMINAL APPLICATIONNO. 2514 OF 2000

State of Maharashtra ..Applicant
V/s
Balasaheb Keshav Thackeray
and others ..Respondents.

Ms. R.M. Gadhvi, and Mrs. M.H. Mhatre APP for the applicant in both applications respectively.

None for the respondents.

CORAM : J.H. BHATIA, J.

DATE : 23RD FEBRUARY, 2007.

ORAL ORDER

. Heard Mrs. Mhatre and Ms. Gadhvi, learned Assistant Public Prosecutors for the applicant. None for the respondents

2. Both these applications may be disposed by common order as they seek to quash the common order passed by Additional Chief Metropolitan Magistrate 5th Court on 25th July, 2000, terminating the proceeding in Crime No. 420/1993 and 453/1993 registered by Dadar

Police Station for the offence punishable under Section 153A(1) of Indian Penal Code.

3. The case, in brief, is that in Marathi News paper "Samana" articles were published in the Month of January 1993 and according to the State, these articles were to promote enemity between different groups on the ground of religion. They were written against the particular community after the bomb blasts on 6/1/1993. According to the prosecution, the police had moved the Government to accord sanction for prosecution in 1994. However, the Government was leased to accord sanction under section 196(1)(a) Cr.P.C. on 20th July, 2000 and after that two cases were registered at Dadar Police Station. The learned Additional Chief Metropolitan Magistrate held that the case was barred by limitation under the provisions of Section 468 Cr.P.C. and therefore, the proceedings in both the crimes were directed to be terminated.

4. The offence under Section 153A carries punishments of imprisonment which may extend to three years or fine or both. Section 468 (1) Cr.P.C. provides that except as otherwise provided elsewhere in

the Code, no Court, shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation. Under sub-section (2) the period of limitation shall be three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. As such, the limitation of three years is applicable to the case under section 153A IPC. Section 473 Cr.P.C. reads as follows:-

> *"Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitations, if it is satisfied on the facts and the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interest of justice."*

From this, it is clear that even after the expiry of period of limitation, a Court may take cognizance of offence, if it is satisfied on the facts and circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interest of justice. Therefore, either of these two conditions have to be satisfied for taking cognizance beyond the period of limitation. One condition is that

the delay must be properly explained and second condition is that it is necessary so to do in the interest of justice. The offending articles were published in January, 1993. The cases could be filed in the Court by January, 1996 as per Section 468 Cr.P.C. There is no plausible explanation for a delay of four and half years beyond the period of limitation. It appears that the articles published in "Samana" were outburst of the feelings as a reaction to the bomb blasts on 6/1/1993, wherein more than 300 peoples were killed in Mumbai. No interest of Justice would be served by digging out the old cases after expiry of seven years. They would only revive the communal tension. By this time, period of fourteen years has already passed. In view of the above circumstances, it is difficult to find fault with the impugned order.

5. For the aforesaid reasons, both the applications stand dismissed.

(J.H. BHATIA, J.)